

**EXAMINING BOARD OF PROFESSIONAL GEOLOGISTS,
HYDROLOGISTS, AND SOIL SCIENTISTS
MADISON, WISCONSIN
MINUTES
TUESDAY, OCTOBER 23, 2001**

PRESENT: Joan Underwood, Thomas Evans, Herbert Garn, Roger Hall, Tracy Benzel, Wayne Lindgren, Robert Karnauskas, Stephen Donohue, Patrick McGuire (by phone),

EXCUSED: Frederick Birts, David Mickelson, and Jerry Tyler

STAFF PRESENT: Katharine Hildebrand, Grace Schwingel and William Black

CALL TO ORDER

Joan Underwood, Chair, called the meeting to order at 9:10 a.m. A quorum of 9 members was present.

ADOPTION OF AGENDA

MOTION: Tom Evans moved, seconded by Herb Garn, to approve the agenda, as published. Motion carried unanimously.

APPROVAL OF MINUTES (5/22/01)

MOTION: Herb Garn moved, seconded by Wayne Lindgren, to approve the minutes of 5/22/01, as written. Motion carried unanimously.

ADMINISTRATIVE REPORT

Secretary Oscar Herrera

Secretary Herrera conveyed Governor Scott McCallum's sincere gratitude to the Board for the time and effort they contribute as Board members. Secretary Herrera informed the Board about several biennial budget items that affect the Department. The Governor had two options, either to increase taxes or to cut programs. Governor McCallum decided that there would be no tax increases. Instead, the state will operate, as most families must do, by living within its budget.

With the 5% cut in state budgets, the State of Wisconsin will be able to save about 180 million dollars. Over 50% of the budget will go towards education in one form or another. Secretary Herrera said that the mandatory 5% cut in state budgets did not affect the Department's day-to-day operations, because the Department has a reserve fund to absorb this cut in the budget. The Department received three additional positions in DOE to reduce the backlog of cases to better

serve the professions and the people that the Department regulates. Secretary Herrera informed the Board that, at the Department's request, the Governor vetoed provisions pertaining to a cemetery management fund, closing agents for real estate transactions and a requirement for an institutional pharmacist as a member on the Pharmacy Board.

The Governor has had to divert much of his time to increasing the security of the State of Wisconsin, at many different levels, as a result of the terrorist attack in New York. The Department has also been asked to take steps to increase security in this building to provide a safe working environment.

Katharine Hildebrand

Katharine Hildebrand introduced herself as the new Bureau Director, appointed by Secretary Oscar Herrera. Hildebrand gave the Section members a review of her background, indicating that she came to the Department from the Governor's Office. She served as the Governor's Education Policy Advisor and also served on the Education Team under former Governor Thompson. Hildebrand asked Section members to contact her with any questions they may have or if there is any way she can assist them in their duties as Section members. Hildebrand indicated that, initially, one of her primary goals is to get the Boards and Sections fully staffed with members whose terms are current.

- **Board Roster**

Hildebrand is working with the Governor's Office to fill replacements on the Sections for any board member whose term has expired. Fred Birts' term, from the Geology Section, has expired.

Herb Garn announced that he plans to resign from his position on the Hydrology Section. Garn has made a recommendation to the Governor's Office for a potential replacement, Harry Perot, a former hydrologist, who served on the Exam Development Committee to fill out the balance of his term. His current term expires in July 2004. Garn is willing to continue to serve for a period of time until a replacement for him is found.

Patrick McGuire also announced that he has given notice to the Governor's Office that he will be resigning from the Soil Scientists Section as of January 1, 2002. McGuire also recommended two individuals, Robert Wendt from Madison and John Guntow, from the Sheboygan area, to the Governor's Office as possible replacements for him. The Soil Scientists Section will plan to have a teleconference between now and January to include Pat McGuire in one more meeting.

Bill Black noted that even after a board member retires, he may still be called on and would be eligible to serve if the Board or Section is lacking a quorum. Robert Karnauskas noted he has not received a notice of his confirmation yet.

- **2002 Meeting Dates**

The Joint Board will meet in March and September in 2002.

- **Revised Travel Reimbursement Rates**

It was noted that the mileage reimbursement has increased from .29 cents to .325 cents per mile.

- **Summary Reports on Pending Court Cases, Disciplinary Cases and Administrative Rules and Press Release of Disciplinary Orders**

Hildebrand explained the new procedure of putting this information in all board agenda packets for informational purposes.

- **Regulatory Digest**

Hildebrand will prepare an article on the Interagency Liaison Committee and get an estimate of the number of people at the DNR who were denied licensure but who may not be aware that possibly they meet the requirements to sit for the exam based on their experience. Hildebrand will also prepare a legislative update for the February Regulatory Digest as well as some information on electronic signatures. Bill Black will prepare a paragraph regarding whether sole proprietorships need a firm certificate of authorization for licensees to put under the heading of "*Did you know?*" According to the statutes, a sole proprietor without additional licensees as employees is not required to have a certificate of authorization. Hildebrand will look into how quickly the Department processes corporate certificates and will compile a list of all of the firms that have registered as offering professional geology, hydrology and soil science services. Hildebrand will also provide an accurate count for the number of active licensees in each of the Sections of the Joint Board to be included in the Regulatory Digest.

Jerry Tyler is writing an article on preparing for the examination process. There was some concern that misunderstandings about options available for acquiring licensure may be behind some of the pressure for the state to grant public agencies exemptions for their employees. Herb Garn is working on an article on AIH activities for the Hydrologists Section of the Digest. Hildebrand will compile a list of registered firms to include in the Digest. The Board noted that most of the Regulatory Digests they look at from other states have a much more professional appearance with a lot of good information in them and would like Wisconsin's Regulatory Digest to be upgraded somewhat if at all possible.

- **To-Pass Folder**

Noted.

SECTION REPORT/NEWS

Geologists - Joan Underwood

Joan Underwood did not attend the October National Association of State Boards of Geology (ASBOG) meeting due to the events of 9/11/01. The meeting was held but there were a number of cancellations for the ASBOG meeting due to the terrorist attack in New York. There is a lot

of activity on an international level, led primarily by Canada because their stock exchange has the vast majority of the publicly traded mining companies on it. There are concerns in Canada about the lack of adequate reviews by professionals on some of the speculative reports coming out. Canada registers by province in the same way we register by state and is putting significant effort into trying to coordinate regulatory requirements between the provinces to agree on minimum levels of requirements to facilitate the mobility of professionals between provinces and territories. This will be an area the Board would like to watch.

Hydrologists, Stephen Donohue

Herb Garn gave a brief report on the American Institute of Hydrology (AIH) meeting he attended and gave a report on the status of licensing program in Wisconsin. Darwin Tichenor was also at that meeting to work with AIH in the process of turning over the responsibility of the hydrology examination process to AIH. AIH will be administering the exam in 2002 and will be absorbing the cost of administering the exam. AIH plans to change the schedule to give the exams in May and November 2002, rather than in January and July as they have previously been given. AIH Board members support the registration of hydrologists.

Soil Scientists-Tracy Benzel

Tracy Benzel gave a brief report on soil scientists issues. He referred to some materials Jerry Tyler has e-mailed to the Section that will be discussed in their next Section meeting. Benzel asked members from the other Sections at the Joint Board meeting about the process of proctoring the exams to ensure the security of the exam relating to identification of people taking exams, precautions taken to prevent cheating and consequences for people caught cheating. Benzel reported on other states (Minnesota) that are in the process of passing soil science legislation exempting specific groups from licensure requirements. The exemption process seems to be an issue in some other states, as well as in Wisconsin.

LEGISLATIVE UPDATE

AB 358 and SB 156

The Section had a lengthy discussion about their concerns with the legislature's approach to these two bills, which the Board feels is bad public policy. The Board would like to write a letter to Secretary Herrera to express the Board's concerns about the impact this legislation will have. Basically, what the legislature is doing is taking a practice act and turning it into a title act. Hildebrand will follow up on the status of SB 156. The Board supports SB 156 even though it does not give the Board everything it wants, but gives the Board rule-making authority over incidental practice. A concern of the Board was if an unlicensed person, who is exempted from meeting minimum requirements, does something wrong and a complaint is filed, the Joint Board is completely cut out of the complaint process because it would be an unlicensed issue.

Myra Shelton, the Department Legislative Liaison, will keep the Board informed through Hildebrand, on the progress of SB 156. Legal Counsel, Bill Black, suggested that the Board make a case for catastrophic harm by listing possible scenarios where having unlicensed people

performing various aspects of the professions of geology, hydrology and soil science. Tracy Benzel will write a letter to the Legislature, the Assembly and the Committee in the Senate regarding the impact this legislation will have. The Board's position is that they would rather be proactive now than have to address catastrophic failures that may well happen in the future.

MOTION: Robert Karnauskas moved, seconded by Stephen Donohue, recommending that the Joint Board form a Legislative Advisory Committee consisting of Stephen Donohue, Chair of the Committee, Tracy Benzel and Thomas Evans to respond to the provisions of AB 358 and SB 156 reflecting the concerns of the Joint Board. The Committee will write a letter to identify a plan for interaction with legislators and Secretary Herrera to explain the Joint Board's position with the intent of modifying the legislation. The Joint Board will convene by teleconference for a final vote of approval of the letter written by the Committee. Motion carried unanimously.

ADMINISTRATIVE RULES

Scope Statement of Proposed Rules Relating to Continuing Education Requirements

MOTION: Tracy Benzel moved, seconded by Stephen Donohue, to table taking any steps in the rule-making process towards developing continuing education rules and to have continuing education on the March agenda for discussion in each of the section meetings in March 2002 with potential for taking steps. Motion carried unanimously.

INTERAGENCY LIAISON COMMITTEE

Report from 5/30/01 Meeting, Joan Underwood, Chair

Joan Underwood reported on the meeting of the Interagency Liaison Committee on 5/30/01. The goal of the Committee is to bring various state agencies together and to attempt to obtain consistency, relating to provisions in administrative rules of the agencies, to determine how specific technical requirements that already exist in administrative codes fit with the Board's licensure requirements, and to assure that rules of the various agencies provide protection of the public. The representatives from other state agencies that the Committee will be meeting with today are:

- Paul Morrison - Department of Agriculture, Trade & Consumer Protection (DATCP) - Fertilizer and Pesticide and Nutrient Management
- Mike Lemcke - Department of Natural Resources (DNR) - Ground Water Section Chief
- Lori Huntoon - Department of Commerce (COMM) - Chief of the Site Remediation Section in Division of Environmental and Regulatory Services

Scheduled Committee Meeting (10/23/01, 1:30 p.m.)

This meeting is scheduled to take place this afternoon, after the Joint Board meeting.

PRACTICE ISSUES

Letter from Jennifer Tobias, Hydrogeologist, DNR

The Board reviewed the letter from Jennifer Tobias and answered the questions raised in the letter. It was noted that the issues raised in the Tobias letter were very pertinent to the agenda of today's Interagency Liaison Committee. To properly respond to the Tobias letter, the Board needs to establish an objective standard for measuring qualifications, a way to consistently apply the standard and a way to deal with enforcement issues. There also needs to be a code of ethics.

MOTION: Tracy Benzel moved, seconded by Stephen Donohue, to have Joan Underwood write a letter responding to Jennifer Tobias. The Joint Board will convene by teleconference for a final vote of approval of the letter written by the Committee. Motion carried unanimously.

A tentative teleconference meeting was scheduled for Wednesday, November 14, 2001, to approve the letters being written as a result of today's meeting.

Electronic Signatures

The Joint Board is willing to follow the decision that the Engineering Section makes on this issue. Hildebrand will let the GHSS Joint Board know what the A-E Joint Board decides on the issue of electronic signatures.

MISCELLANEOUS CORRESPONDENCE

Nothing to report.

NEW BUSINESS

Nothing to report.

ADJOURNMENT

MOTION: Stephen Donohue moved, seconded by Thomas Evans, to adjourn the meeting at 12:30 p.m. Motion carried unanimously.

NEXT MEETING: March 14, 2002

Rules Committee 9:00 A.M.

Board Meeting 10:00 A.M.

DATE: February 8, 2002
TO: Katharine Hildebrand
FROM: Grace Schwingel
SUBJECT: Examining Board of Professional Geologists, Hydrologists, and Soil Scientists
Board Meeting of October 23, 2001, To Do List

1. **Katharine Hildebrand** will be working on getting all board positions filled that are, or soon will be, vacant or whose terms have expired. Herb Garn will be resigning from Hydrology Section, Patrick McGuire is resigning from the Soil Science Section and Fred Birts, whose term has expired, from the Geology Section.
2. **Regulatory Digest Articles:**
Katharine Hildebrand: Interagency Liaison Committee and get an estimate of the number of people at the DNR who were denied licensure but who may not be aware that possibly they meet the requirements to sit for the exam based on their experience.
Katharine Hildebrand: legislative update and information on electronic signatures.
Katharine Hildebrand: will find out how quickly the Department processes corporate certificates and compile a list of all the firms that have registered as offering professional geology, hydrology and soil science services. She will also get an accurate count for the number of active licensees in each of the Sections. Will also look into the possibility of upgrading the appearance of the Digest.
Bill Black: requirements for sole proprietorships and certificates of authorization.
Jerry Tyler: preparing for the examination process.
Herb Garn: AIH activities for the Hydrologists Section of the Digest.
3. **A Committee consisting of Stephen Donohue, Tracy Benzel, and Thomas Evans** will write a letter to the Legislature, the Assembly and the Committee in the Senate expressing the Board's concerns regarding the impact of AB 358 and SB 156.
4. **Joan Underwood** will prepare a letter to Jennifer Tobias, to respond to questions raised in her letter to the Board.